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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,254	03/17/2004	Marc D. Eichells	2186.005USU	4331
7590 Charles N.J. Ruggiero, Esq. Ohlandt, Greeley, Ruggiero & Perle, L.L.P. 10th Floor One Landmark Square Stamford, CT 06901-2682			EXAMINER HAND, MELANIE JO	
			ART UNIT 3761	PAPER NUMBER
			MAIL DATE 11/24/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/802,254

**Applicant(s)**

ETCHELLS, MARC D.

**Examiner**

MELANIE J. HAND

**Art Unit**

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 14-16 have been considered but are moot in view of the new ground(s) of rejection prompted by applicant's amendment to the claims.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Meehan (U.S. Patent No. 4,633,533).

With respect to **claim 14**: Meehan discloses an absorbent pad 1 for placement in a container (e.g. bedpan) (Col. 5, lines 1,2) comprising a base panel 2 or 3 and one or more side panels 2 or 3 hingeably connected via hinge 4 to said base panel, i.e. the other of panels 2 and 3. (Col. 4, lines 12-19) The one or more side panels 2,3 each further comprise a top sheet in the form of biodegradable paper 15 (Col. 5, lines 21-25), a bottom sheet in the form of a PET film (Col. 4, line 67 – Col. 5, line 6), and one or more islands in the form of a grid region 7 of crenellations 6 disposed between said top sheet and said bottom sheet. (Fig. 2, Col. 4, lines 20-24) Meehan discloses that the hinge 4 is biased such that it opposes opening of portions 2,3 into a flat-out position. (Fig. 3, Col. 5, line 68 - Col. 6, line 14) It is examiner's position, based upon this

disclosure and the configuration of the pad shown in Fig. 3 of Meehan that one or more of the side panels 2 or 3 will cover at least a portion of a side of the container (i.e. the bedpan) in which the absorbent pad 1 is placed when the article is placed in a corner of the bedpan or along any of the walls.

With respect to **claim 15**: The one or more side panels 2 or 3 are foldable via hinge 4 (Figs. 2,3), allowing the absorbent pad to conform to a base and sidewalls of a similarly dimensioned package or container, i.e. a bedpan, inasmuch as when the pad is dropped or placed as disclosed by Meehan in a corner of the bedpan, the pad would be allowed to conform to a base and sidewall of a similarly dimensioned package or container, wherein the limitation "similarly dimensioned" is given its broadest reasonable interpretation. Meehan discloses that the pad provides the capability of neutralizing offensive odors, which could not be accomplished without the pad being similarly dimensioned to the container/bedpan.

With respect to **claim 16**: The base panel, i.e. the other of panels 2 and 3 that does not serve as the side panel, further comprises a top sheet in the form of sheet 15, a bottom sheet in the form of a PET film that is the same film that provides the backsheet of the side panel, and one or more islands in the form of region 8 comprising additional crenellations beside those in region 7 disposed between said top sheet of said base panel 2 or 3 and said bottom sheet of said base panel 2 or 3.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meehan ('533).

With respect to **claim 14**: Meehan discloses an absorbent pad 1 for placement in a container (e.g. bedpan) (Col. 5, lines 1,2) comprising a base panel 2 or 3 and one or more side panels 2 or 3 hingeably connected via hinge 4 to said base panel, i.e. the other of panels 2 and 3. (Col. 4, lines 12-19) The one or more side panels 2,3 each further comprise a top sheet in the form of biodegradable paper 15 (Col. 5, lines 21-25), a bottom sheet in the form of a PET film (Col. 4, line 67 – Col. 5, line 6), and one or more islands in the form of a grid region 7 of crenellations 6 disposed between said top sheet and said bottom sheet. (Fig. 2, Col. 4, lines 20-24) Meehan discloses that the hinge 4 is biased such that it opposes opening of portions 2,3 into a flat-out position. (Fig. 3, Col. 5, line 68 - Col. 6, line 14)

Meehan does not explicitly disclose that one or more of the side panels 2 or 3 will cover at least a portion of the side of the bedpan. However, it is examiner's position, based upon this disclosure and the configuration of the pad shown in Fig. 3 of Meehan, that one or more of the side panels 2 or 3 is fully capable of covering at least a portion of a side of the container (i.e. the bedpan) in which the absorbent pad 1 is placed, and the pad provides odor neutralizing capability to any container surface it contacts. Thus, it would be obvious to one of ordinary skill

in the art to modify the pad disclosed by Meehan such that the one or more side panels cover at least a portion of a side of the container in which the absorbent pad is placed to provide additional surfaces of the bedpan container with odor neutralizing capability.

With respect to **claim 15**: The one or more side panels 2 or 3 are foldable via hinge 4 (Figs. 2,3), allowing the absorbent pad to conform to a base and sidewalls of a similarly dimensioned package or container, i.e. a bedpan, inasmuch as when the pad is dropped or placed as disclosed by Meehan in a corner of the bedpan, the pad is considered herein to be allowed to conform to a base and sidewall of a similarly dimensioned package or container, wherein the limitation "similarly dimensioned" is given its broadest reasonable interpretation. It is examiner's position that the act of effectively neutralizing odor cannot be accomplished without the pad being similarly dimensioned to the container/bedpan.

With respect to **claim 16**: The base panel, i.e. the other of panels 2 and 3 that does not serve as the side panel, further comprises a top sheet in the form of sheet 15, a bottom sheet in the form of a PET film that is the same film that provides the backsheet of the side panel, and one or more islands in the form of region 8 comprising additional crenellations beside those in region 7 disposed between said top sheet of said base panel 2 or 3 and said bottom sheet of said base panel 2 or 3.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/

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Examiner, Art Unit 3761

/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761